IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM

and

The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.562 of 2006

Malarkodi .. Petitioner

Vs.

1. The Secretary to Government,
   Prohibition and Excise Department,
   Fort St. George, Chennai-9.

2. The District Magistrate and
   District Collector,
   O/o the Collectorate,
   Perambalur District,
   Perambalur. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of the second respondent pertaining to the detention order made in Cr.M.P.No.29/2006 dated 17.05.2006 in detaining the detenu under Tamil Nadu Act 14 of 1982 as a "Bootlegger" and quash the same and direct the respondents to produce the said detenu viz., Selvaraj, son of Muthuvel aged 35 years who is detained in Central Prison, Trichy before this Court and set him at liberty.

For Petitioner : Mr.D.Veerasekaran
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, who is the wife of the detenu by name Selvaraj, who is detained as a ''Bootlegger" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.05.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 26.05.2006 was received by the Government on 29.05.2006 and remarks were called for on 30.05.2006 and the remarks were received by the Government on 12.06.2006 and the File was submitted on the same day i.e. on 12.06.2006 and the same was dealt with by the Under Secretary and Deputy Secretary on 13.06.2006 and finally, the Minister for Prohibition and Excise passed orders on 14.06.2006. The rejection letter was prepared on 23.06.2006 and the same was sent to the detenu on 29.06.2006 and served to him on 01.07.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 14.06.2006, there is no explanation at all for taking time for preparation of rejection letter till 23.06.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

To

1.The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector, Perambalur District

3.The Superintendent, Central Prison, Tiruchirappalli.
(In duplicate for communication to detenu)

4.The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

Rsm/30.8.2006

HCP. No.562 of 2006

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